

# **Exhibit G**

**Stenographic Transcript  
Before the**

**COMMITTEE ON COMMERCE, SCIENCE,  
AND TRANSPORTATION**

**UNITED STATES SENATE**

**HEARING ON FIREFIGHTING AIRCRAFT SAFETY**

**Wednesday, June 2, 2004**

**WASHINGTON, D.C.**

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1                                    FIREFIGHTING AIRCRAFT SAFETY

2  
3                                    Wednesday, June 2, 2004

4  
5                                    U.S. Senate

6                                    Committee on Commerce, Science,  
7                                    and Transportation

8                                    Washington, D.C.  
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10                    The committee met, pursuant to notice, at 9:31 a.m. in  
11                    Room SR-253, Russell Senate Office Building, Hon. John McCain  
12                    [Chairman] presiding.

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1 OPENING STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM  
2 ARIZONA

3 The Chairman: Good morning. Today's hearing is to  
4 address the recent decision by the Department of Interior and  
5 the Department of Agriculture to cancel contracts for all 33  
6 of the large firefighting aircraft. That action has a  
7 substantial impact on many States in their efforts to fight

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9 all retardant used to suppress wildfires was delivered by  
10 these 33 aircraft.

11 We are told these cancellations were in response to a  
12 safety recommendation letter issued by the National  
13 Transportation Safety Board that reviewed three accidents  
14 involving firefighting aircraft. However, it should be  
15 pointed out that the key recommendation in the NTSB letter was  
16 not for the agencies to cancel contracts. It was that the  
17 contracting agency should further develop a maintenance and  
18 inspection program that ensure the safe operation of these  
19 planes. Rather than instituting such a safety system,

1 issue has been around for years, with reports by the General  
2 Accounting Office, the USDA Inspector General, and even a  
3 joint report by FAA and the Forest Service, all of which  
4 recommended improvements to the safety oversight program.

5. Moreover, after two incidents — one in 1968 and another in 1970 —

13       The NTSB report briefly discussed the Sandia study as  
14 follows, quote: "The Safety Board is aware that the Forest  
15 Service has recently embarked on a multi-year plan to evaluate  
16 and improve the airworthiness of its airtanker fleet,  
17 including modification of its maintenance program so that it  
18 more closely reflects the firefighting mission. The board  
19 supports this initiative and looks forward to learning more  
20 about the progress and results of this plan."

21 Again, the NTSB report did not recommend grounding these  
22 planes. In fact, according to the excerpt I just read the  
23 NTSB supported the approach that was being recommended by  
24 Sandia.

1 paramount importance, we cannot lose sight of the fact that  
2 lives on the ground are also at risk. We are already well  
3 into fire season in many States. The destruction that  
4 wildfires can cause is almost beyond comprehension. In  
5 Arizona, for example, the 85,000-acre Rodeo fire that occurred  
6 in 2002, which had already been declared the worst in  
7 Arizona's history, merged with the Chatsky fire to form an  
8 inferno that destroyed 468,000 acres and more than 400  
9 structures. A total of more than 630,000 acres in Arizona  
10 burned in that year alone.

11 Therefore, during today's hearing I hope we will receive  
12 testimony from the agencies on what actions are being taken to  
13 return the tanker aircraft safely to service. They clearly  
14 are a critical part of our Nation's firefighting arsenal,  
15 especially when used for initial attacks on emerging fires,  
16 where the use of tankers buys time for fire crews on the  
17 ground, and when used to protect buildings.

18 I look forward to hearing from our witnesses.

19 Senator Burns.

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1       STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR FROM  
2       MONTANA

3       Senator Burns: Thank you very much, Mr. Chairman, and  
4       thank you for holding this hearing. And thanks for inviting  
5       Mark Timmons, who is President of Neptune Aviation Services  
6       out of Missoula, Montana. We are happy to have him here. As  
7       you may know, Neptune has played a vital role in firefighting  
8       in my State and many others States in the West. It represents  
9       the very best of the companies contracted to fight fires and,  
10      as you can imagine, I am very concerned about the company's  
11      wellbeing.

12      My concerns also carry over to the entire West. We are  
13      about to head into another, probably going to be another  
14      record fire season. The drought conditions continue in the  
15      West and just institutional knowledge will tell us that we are  
16      going to need some aircraft to fight fires.

17      I also believe that we have a situation that can be  
18      alleviated if we can get some good faith negotiation between  
19      the appropriate agencies and the companies involved. Both  
20      government and private entities have the same two goals: the  
21      aircraft need to be safe, they need to be safe and properly  
22      maintained; we need resources to fight this year's fires.

23      I want to emphasize that wildfire still concerns us in  
24      the West. Last year wildfires nationally burned 3.6 million  
25      acres and cost \$750 million. Within that, in Montana we



1 burned up 860,000 acres at a cost of \$260 million. So we are  
2 concerned. Over the past 4 years, nationally 22 million acres  
3 have burned. That is 34,000 square miles, with a cost of over  
4 \$4 billion. In Montana we account for 2.3 million acres. In  
5 a fire season alone we have 190 million acres that is at risk  
6 due to insects, disease, and hazardous fuel accumulation. We  
7 still have those conditions even though we are working on them  
8 every day.

9 Mr. Chairman, we have a drought condition in the Rocky  
10 Mountain States of my State and Idaho, Wyoming, Nevada,  
11 Colorado, Utah, New Mexico, and Arizona. They remain -- those  
12 levels remain in severe or extreme fire danger. Even with the  
13 current rainfall in Montana, 70 percent of the subsoils are  
14 short of moisture. Many snowpack water equivalent sites are  
15 50 percent of normal. The scenario is not good and I believe

18 Finally, I hope that we can find some solutions today.

1 term options.

2 Flying any airplane is dangerous business, as you well  
3 know. Let us get the safety measures in place, acknowledge  
4 that there are those who already have those safety measures in  
5 hand and are doing them today. Good companies should not  
6 suffer from a blanket decision that did not take everyone into  
7 account individually.

8 So thank you for holding this hearing, Mr. Chairman. We  
9 have got -- I think we can work this whole thing out. I did  
10 not know the issue was going to get this big, to be honest  
11 with you. But there are so many grey areas in this thing, and  
12 everybody kind of -- it is kind of a CYA thing, but we have to  
13 resolve it because we are in the fire season.

14 Thank you again for having this hearing.

15 The Chairman: Thank you.

16 Senator Wyden.

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1 STATEMENT OF HON. RON WYDEN, U.S. SENATOR FROM OREGON

2 Senator Wyden: Thank you, Mr. Chairman. I too  
3 appreciate your holding the hearing. We have got four  
4 westerners here and it is a bipartisan quartet, and that is  
5 exactly what I think it is going to take in order to turn this  
6 problem around, because it is pretty obvious that we have a  
7 responsibility vacuum. It seems that everybody thought  
8 somebody else was in control of ensuring that these tankers  
9 were safe for wildfire fighting and at the end of the day it  
10 seems that nobody was really in charge.

11 I am particularly interested in making sure that today it  
12 is clear that there is now a plan for dealing with this  
13 problem and that it is clear who is responsible for taking the  
14 lead in ensuring that the recommendations, the safety  
15 recommendations, from the National Transportation Safety Board.  
16 -- and I met with them yesterday -- are actually followed.

17 I think it is also important that we look at new ways to  
18 ensure that there is enough scientific information to design a  
19 safety program that takes account of the special stresses of  
20 firefighting. Certainly that means that there has got to be a

1 the four of us all coming from the West, it is pretty obvious  
2 that for the next few months we are going to see people all  
3 over the West grabbing their belongings, fleeing their  
4 communities. I think there is a responsibility to get this  
5 tanker policy right to ensure that we have the tools for  
6 wildfire fighting. I look forward to working with you, Mr.  
7 Chairman, and our colleagues to do that.

8 The Chairman: Thank you.

9 Senator Boxer.

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1 STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM  
2 CALIFORNIA

3 Senator Boxer: Thanks very much, Mr. Chairman. You  
4 could not have picked a more important topic for my State  
5 right now, and I know all of us in the West are so worried  
6 about the conditions.

7 I would ask unanimous consent that my full statement be  
8 placed in the record and I will summarize it as fast as I can.

9 The Chairman: Without objection.

10 Senator Boxer: We all have to just look back to the  
11 devastating wildfire season last year, when fire swept through  
12 Ventura, Los Angeles, San Bernadino, Riverside, and San Diego.  
13 It was a result of many conditions, including not enough  
14 rainfall and the bark beetle infestation that killed trees  
15 throughout the region and turned them into kindling. 24  
16 people died, 750,000 acres were burned, and 3700 homes were  
17 lost, give or take a couple.

18 One important tool for us then was the Forest Service  
19 contracting for aerial tankers. There were 23 used in those  
20 efforts, which were contracted from private companies. After  
21 three airtanker accidents, one in '94 and two in '02, the NTSB  
22 released recommendations that Department of Agriculture and  
23 Interior develop maintenance and inspection programs for  
24 firefighting aircraft.

25 Now, rather than do that, the Department of Interior and

1 the Forest Service simply cancelled the contracts. So we may  
2 well lose this vital resource. Now, I wrote to Secretary  
3 Veneman and Interior Secretary Norton and requested  
4 information on what measures are being taken to ensure that  
5 airtankers will be available when needed in light of the  
6 decision to terminate their contract for 33 large airtankers.  
7 Mr. Chairman, I have yet to receive a response. That is why I  
8 think this hearing is so critical.

9 I just want to quote Fire Chief Bill Smith from San  
10 Bernadino after he read that the tankers were grounded. This  
11 is someone on the ground. This is not a political person. He  
12 said, quote: "In reality, it is just pretty scary going into

14 they are available, when they can be used, they have a major  
15 effect on fighting." And he went on to say the tankers were  
16 especially helpful in getting a handle on the fires in the  
17 early stages.

1 substitute. We are hoping that your alternative plan is not  
2 the one we think it is, which is to use California's  
3 airtankers, because that is just not enough. We used all of  
4 those the last time.

5 Agriculture Under Secretary Mark Rey stated at the Energy  
6 and Natural Resources Committee -- Mr. Rey, you are here today  
7 -- that "Thousands of wildland fires are suppressed without  
8 the benefit of air support." So I hope I am not reading into  
9 that the fact that you do not think that these tankers work,  
10 because if that is your position that is contrary to my people  
11 on the ground who are dealing with this every single day.

12 So, Mr. Chairman, thank you. I think maybe we need to  
13 look to the FAA on this whole matter. This hearing is so  
14 crucial. Again, I thank you for holding it.

15 [The prepared statement of Senator Boxer follows:]

16 [COMMITTEE INSERT]

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1 The Chairman: Thank you.

2 Senator Smith.

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1 STATEMENT OF HON. GORDON SMITH, U.S. SENATOR FROM OREGON

2 Senator Smith: Thank you, Mr. Chairman. Thank you for  
3 holding this hearing. I will submit my statement for the  
4 record, Mr. Chairman.

5           The Chairman: Without objection.

6 Senator Smith: But I thank you as well for holding this  
7 hearing. It is, I think as Senator Boxer said, a very  
8 important hearing, even a life and death hearing, for many of  
9 our communities. I have a number of questions I hope I am  
10 able to stay long enough to ask Secretary Rey about in terms  
11 of the needs of State land, private land that adjoins forest  
12 land, and the need of the Oregon Department of Forestry to  
13 utilize the tankers that they have hired in the event that  
14 these are in fact excluded.

15 to stop a fire that is roaring when it comes to private land.  
16 The truth is it does not know the border, and sometimes the  
17 bureaucracy involved really can be damaging, in this case  
18 downright dangerous.

19            Thank you, Mr. Chairman.

1     The Chairman: Well, thank you, Senator Smith. I just

2     want to mention again that we all know, Senator Boxer  
3     mentioned, all of us in the West, we all know what is going to  
4     happen in the next few months. And here we are at a time

5     where there is no such thing as a free lunch.

6     inevitable, but the chances of a devastating forest fire,  
7     plural, is extremely good, given the drought conditions that  
8     exist.

9     At the same time, an extremely valuable asset has now  
10    been taken from the inventory, even though the National  
11    Transportation Safety Board did not make such recommendation

1 make a statement that is at best disingenuous and at worst  
2 absolutely false.

3 I happen to have an aviation background and I do not have  
4 a firefighting background, but I do know that the NTSB is the  
5 ultimate arbiter in this kind of situation with regards to  
6 aviation safety, not the Department of Agriculture, not the  
7 Bureau of Land Management, and certainly not the Forest  
8 Service. That is why I was motivated to having this hearing  
9 today and that is why I think it is important that we have the  
10 witness from the National Transportation Safety Board here  
11 this morning.

12 So our panel is: the Honorable Ellen Engleman Connors,  
13 Chairman of the National Transportation Safety Board -- we  
14 thank you for coming today -- Mr. Nicholas Sabatini, Associate  
15 Administrator for Regulation and Certification of the FAA; Mr.  
16 Mark Rey, Under Secretary for Natural Resources and  
17 Environment, U.S. Department of Agriculture; Mr. Mark Timmons,  
18 President of Neptune Aviation Services, Missoula International  
19 Airport; and Mr. William Grantham, President, International  
20 Air Response Incorporated, Chandler, Arizona.

21 We will begin with -- I want to thank all the witnesses  
22 for coming today. We will begin with Ms. Engleman.

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1 STATEMENT OF HON. ELLEN ENGLEMAN CONNERS, CHAIRMAN,  
2 NATIONAL TRANSPORTATION SAFETY BOARD

3 MS. Conners: Good morning, chairman, members of the  
4 committee. My name is Ellen Engleman Conners and it is truly  
5 my privilege to serve as the Chairman of the National  
6 Transportation Safety Board, representing the board's 429  
7 dedicated professionals. Thank you for the invitation to  
8 testify before you today regarding the board's recent safety  
9 recommendations that resulted from three separate accidents  
10 involving firefighting airtankers.

11 Chairman, we have submitted our written testimony, if we  
12 could have that as part of the record, and I will summarize  
13 it.

14 The Chairman: All the written testimony will be made  
15 part of the record.

16 Ms. Conners: Thank you, sir.

17 Please let me begin by acknowledging the tragic loss of  
18 lives in the accidents being discussed today. Pilots and  
19 crews from the States of California, Montana, and Nevada were  
20 killed during these three accidents. It is our hope that out  
21 of these tragedies and through the NTSB independent safety  
22 investigation and recommendations that good will come.

22. Other information: \_\_\_\_\_

1 World War II. From the beginning of the investigation, it was  
2 understood that these aircraft were investigated in the  
3 category of public, as distinguished from civil, operations  
4 and therefore were not required by the Federal Aviation  
5 Administration to comply with many of the FAA regulations  
6 codified in 14 CFR.

7 For example, regulations pertaining to aircraft  
8 certification and maintenance and flight crew training and  
9 licensing are not applicable to public operations.  
10 Additionally, aircraft used in public operations are not  
11 required to be equipped with flight data or cockpit voice  
12 recorders. Therefore, it was the opinion of the board that  
13 the operator, in this case the U.S. Department of Agriculture,  
14 Forest Service, was primarily responsible for their safe  
15 operation.

16 As in the case with all of our investigations, open  
17 discussions were held with the parties involved. The Safety  
18 Board worked closely with the aviation personnel from USDA-  
19 Forest Service, Department of Interior, and FAA from early  
20 stages of the Walker and Estes Park investigations through the  
21 final release of the accident report and the Safety Board's  
22 recommendation letter.

23 Early in the investigation, within the first month or so,  
24 it became evident that there were serious issues concerning  
25 the airworthiness of these airplanes and the oversight to

1 ensure their safe operation. As the NTSB drafted its  
2 recommendations, we held biweekly meetings and teleconferences  
3 with the FAA and the Forest Service to share our concerns and  
4 our proposed recommendations with them.

5 As per our normal investigation procedures, the NTSB did  
6 not inspect all aircraft in the firefighting fleet, nor did we  
7 investigate all companies involved in aircraft firefighting.  
8 The safety issues identified in the accidents were potentially  
9 present in all large airtanker operations. Thus, the NTSB  
10 safety recommendations were applicable to the entire large  
11 airtanker industry.

12 An example of safety recommendations being applicable to  
13 the broader industry was shown also in 1996 with the TWA  
14 Flight 800 accident. The airplane exploded off the coast of  
15 Long Island, killing 230 people. The NTSB did not investigate  
16 all manufacturers of large aircraft, but the recommendation to  
17 inert the center wing fuel tank was aimed at all transport-  
18 category aircraft.

19 Our recommendations regarding firefighting aircraft were  
20 specific. In order to ensure that there is robust oversight  
21 and inspection infrastructure that will ensure the safe  
22 operation of aircraft used in firefighting operations, the  
23 NTSB recommended that the USDA and the Department of Interior  
24 develop maintenance and inspection programs for aircraft used  
25 in firefighting operations that take into account five

1 specific factors, require that the aircraft in firefighting  
2 operations be maintained in accordance with these programs.

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3 and hire appropriate personnel to conduct oversight of those  
4 programs.

5 In addition, because some of these public use aircraft  
6 might be used for civil use at other times, we recommended  
7 that the FAA require the same maintenance and inspection  
8 programs. We also recommended that the FAA serve as the focal  
9 point for collecting continuing airworthiness data about  
10 surplus military aircraft from the original equipment  
11 manufacturer or the military in order to ensure that -- in  
12 order to share that with subsequent owners and operators.

13 Our recommendations for safety apply to any airframe,  
14 regardless of age, used in firefighting. Whether an old  
15 airplane or a new airplane or an airplane still being  
16 designed, the recommendation to have a maintenance and  
17 inspection program is the same.

18 We note that in March 2004 the industry's Consortium for  
19 Aerial Firefighting Evolution released the Strategic Aerial  
20 Firefighting Excellence report. The conclusion contains a  
21 parallel finding to the Safety Board's finding. The safety  
22 report concluded that the local load environment in which the  
23 current and future aerial firefighting fleet remains largely  
24 unknown; until this environment is adequately characterized,  
25 there is an unknown level of risk that unanticipated in-

3       The industry's SAFE report also concludes: "There is a  
4   need to implement structural health monitoring programs on a  
5   large number, if not all, of the current airtankers. Data  
6   obtained from these programs will define criteria against  
7   which the suitability of future aerial firefighting aircraft

11 The Safety Board is also aware that the USDA began work  
12 with the Sandia Laboratory to develop a maintenance and

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1 The Chairman: Thank you very much.

2 Mr. Sabatini, I welcome you and I amend my previous  
3 remarks. Both the FAA and the NTSB are the people we rely on  
4 to give us the information that we need concerning aviation  
5 safety, and I apologize for leaving you out. Mr. Sabatini,  
6 welcome.

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1           STATEMENT OF NICHOLAS A. SABATINI, ASSOCIATE  
2   ADMINISTRATOR FOR REGULATION AND CERTIFICATION, FEDERAL  
3   AVIATION ADMINISTRATION

4           Mr. Sabatini: Thank you.

5           Good morning, Mr. Chairman, members of the committee.

6           Senator Burns: You might want to pull that microphone up  
7   a little bit closer. Thank you.

8           Mr. Sabatini: You are welcome.

9           My name is Nick Sabatini. I am the Associate  
10   Administrator for Regulation and Certification in the FAA. I

11   am pleased to appear before you today.

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12   respective roles that the FAA, the Forest Service, and the  
13   Department of the Interior play in the safety oversight of  
14   Forest Service and DOI firefighting operations.

15           Recent decisions by the Forest Service and DOI to  
16   terminate contracts with companies that operate airtankers  
17   followed NTSB recommendations that arose out of investigations  
18   of fatal air tanker accidents. Because the decisions to  
19   terminate the contracts were safety-related, a clarification  
20   as to why the Forest Service and DOI and not the FAA are

1 aviation safety oversight agency in the world and I am proud  
2 of our record and reputation. But from the very beginning and  
3 at all times during the existence of the FAA, there has been a  
4 clear statutory distinction between civil and public aircraft  
5 operations. FAA has regulatory and safety oversight authority  
6 over civil aircraft operations. Public aircraft operations  
7 are conducted by or on behalf of many different government  
8 agencies and departments, both State and Federal.

9 By statute, authority for the safety oversight of these  
10 operations belongs to the agency or department responsible for  
11 the operation. While FAA can and does provide technical  
12 support to assist other agencies with their safety oversight  
13 responsibilities, the law is quite clear that FAA cannot  
14 direct or compel another agency to impose specific safety  
15 requirements or force them to meet existing FAA requirements  
16 for the civil aircraft fleet.

17 Over the years, Congress has narrowed and clarified the  
18 definition of "public aircraft." Today it is the type of  
19 operation that defines a public aircraft. Public aircraft  
20 operations are limited to only those operations that are  
21 inherently government in nature, such as firefighting, search  
22 and rescue, prisoner transport, and military operations, to  
23 name a few.

24 These government functions oftentimes involve dangerous  
25 missions and may require aircraft to be operated in a manner



- 1 develop maintenance and inspection programs that are
- 2 appropriate for the firefighting environment. Realistically,
- 3

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1 designees who could assist them with both immediate technical  
2 assistance and ongoing support.

3 Mr. Chairman, aviation safety is critical to the national  
4 interest regardless of the type of operation or who is  
5 responsible for its oversight. Firefighting is also of  
6 paramount importance to the safety and wellbeing of our  
7 country. I understand why Congress is so concerned that the  
8 Forest Service and DOI are able to meet the demands they face  
9 in the coming fire season. FAA is committed to assisting the

32. Number of Members on the Staff.....

11 firefighting operations are conducted as safely as possible,  
12 given the inherently dangerous environment in which the  
13 aircraft must operate.

14 While our statutory responsibilities limit our safety and  
15 regulatory oversight to the civil fleet, we appreciate that  
16 our technical expertise can be valuable to other agencies  
17 conducting public aircraft operations. Improving aviation  
18 safety is in everyone's best interests and FAA will continue

1 The Chairman: Thank you.

2 Mr. Rey, welcome.

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1           STATEMENT OF MARK E. REY, UNDER SECRETARY FOR NATURAL  
2   RESOURCES AND ENVIRONMENT, U.S. DEPARTMENT OF AGRICULTURE

3           Mr. Rey: Thank you, Mr. Chairman. I would like to  
4   submit my statement on behalf of the Department and the  
5   Department of the Interior for the record in its entirety.

6           The Chairman: Without objection.

7           Mr. Rey: And I will just summarize briefly how we got to

8   this point and what our plans are in going forward from here.  
9   I think your opening statement, Mr. Chairman, accurately  
10   summarized the history of how we got to this point.  
11   Essentially, after the fatalities in 2002, with the advice of  
12   a blue ribbon commission chartered by the chief of the Forest  
13   Service and the director of the Bureau of Land Management and  
14   the expertise of the Federal Aviation Administration, we  
15   contracted with Sandia Laboratories to develop a more robust  
16   inspection and maintenance program and to modify the  
17   operations of our large airtanker contract fleet.

18           We were hopeful that, as we knew that an ongoing NTSB  
19   investigation was under way, that the measures that we were  
20   taking would be adequate to assure the safety of the fleet and  
21   to continue its operation. On April 23rd of this year, we  
22   received the final NTSB report, which indicated that for the  
23   fleet as a whole there was no way to assure the airworthiness  
24   of the aircraft. Faced with that report and the pendency of  
25   the upcoming fire season, we had essentially one decision and

1 in my view one decision only to make, and that decision is  
2 this: In the face of the availability of alternative aircraft  
3 which were demonstrably safer, would a prudent person continue  
4 to fly these airtankers? We concluded, given the risks  
5 associated with airtanker crashes and fatalities, the answer  
6 to that question is no.

7 That set us on a very quick march program to secure  
8 alternative aircraft and reconfigure our firefighting aircraft  
9 fleet. That effort was completed yesterday and provided to  
10 the committee last night. We will be retaining the contracted  
11 assistance of up to 46 single-engine airtankers, 21 type 1  
12 heavy lift helicopters, 45 type 2 medium helicopters, 2 CL-

14 use of 8 U.S. military C-130 aircraft equipped with modular  
15 airborne firefighting systems.

16        Those aircraft are presently being contracted for.  Some

1 Service and the BIM was to reconfigure the fleet with adequate  
2 replacement aircraft to maintain that level of effectiveness  
3 at initial attack.

4 In a memo to the chief of the Forest Service, the  
5 director of fire and aviation management in announcing the  
6 reconfigured fleet stated yesterday: "This plan was developed  
7 to maintain near-99 percent initial and

8 extended initial attack success rates. I believe the plan  
9 will accomplish this objective."

10 So those are the new aircraft that have been contracted  
11 and are being contracted for. The fleet will be larger as we  
12 will be using different models of aircraft to fill the role of  
13 the airtankers, and it will be deployed differently to account  
14 for the different delivery times that different makes of  
15 aircraft, models of aircraft, also provide for. But it is our  
16 judgment that it will be equally effective as the fleet was  
17 last year in assisting us in achieving the near-99 percent  
18 initial attack success rate.

19 So the decision was made at the beginning of the fire  
20 season, at a time when there was not a great deal of time to  
21 dally. It was not made lightly because the large airtankers

1 different hearing that would not be very pleasant, and I am  
2 not assuming this hearing is going to be very pleasant.

3 Now, all that having been said, some members of Congress  
4 and other elected officials have raised the good and fair  
5 question: Why not give the large airtanker fleet a chance to  
6 show that they can demonstrate airworthiness, and if they can  
7 then return them to service and save some money in the  
8 process, since they are more cost-effective than the  
9 alternative aircraft that we are contracting to take their  
10 place?

11 That seemed like a fair approach. So, again with FAA's  
12 expert assistance, we have over the last 2 weeks developed  
13 baseline criteria and a profile for the contractors to provide  
14 information to us with FAA's assistance, to assess whether the  
15 information necessary to assure their airworthiness can be  
16 secured and evaluated properly. Today each of the eight  
17 affected contractors will be receiving a letter from the chief  
18 of the Forest Service and the director of the Bureau of Land  
19 Management asking them to provide that information if they so  
20 choose, and the information will be used by the Forest Service  
21 and Department of the Interior and FAA-certified engineering  
22 representatives to evaluate whether we can assure the  
23 airworthiness of part or all of the fleet.

24 If we believe, in our combined expertise, that we can,  
25 then we will be submitting that information to NPSB to see if

1 we can get a further evaluation and a modification of their  
2 recommendations. We are doing that, not because we lack  
3 confidence in the reconfigured fleet that we are contracting  
4 for, but because it seems an equitable thing to do and also  
5 raises the possibility that if some portion of the large  
6 airtanker fleet can be restored to service we can do the  
7 firefighting job equally well at less cost to the public and  
8 with less taxpayer dollars being expended.

9 Let me close with just a quick summary of the difference  
10 between the perception of the use of large airtankers and the  
11 reality of the use of large airtankers. The perception is  
12 that large airtankers extinguish big forest fires. That  
13 perception is not correct. Large airtankers have their

1 year only somewhat less than 20 percent of the total water and  
2 retardant that we used was dropped by large multi-engine  
3 airtankers. We also reduced the hours of the large airtankers  
4 as part of the Sandia protocol by about 42 percent. So they  
5 are a useful part of our fleet, without question. They are a  
6 very cost-effective part of our fleet. But they are not an  
7 essential part of our fleet to maintain firefighting  
8 effectiveness and public safety.

9 Thank you very much.

10 [The prepared statement of Mr. Rey follows:]  
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1 The Chairman: Thank you.

2 Mr. Timmons.

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## 1 STATEMENT OF MARK TIMMONS, PRESIDENT, NEPTUNE AVIATION

2 \_\_\_\_\_ MISSOURI \_\_\_\_\_ MONTANA

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3 Mr. Timmons: Mr. Chairman, I want to thank you for the  
4 honor of testifying before this committee and I would like to  
5 submit my testimony for the permanent record.

6 The Chairman: Without objection.

7 Mr. Timmons: I have two formal documents: one from Doug  
8 Herlihy, an independent forensic aircraft investigator who is  
9 a former lead investigator for the NTSB; the second one is Ron

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1 Mr. Timmons: Thank you, sir.

2 [REDACTED] following have and fellow panel members have discussed. one

3 [REDACTED]  
4 being the NTSB safety recommendations, the termination for  
5 convenience of our contracts with the Department of  
6 Agriculture, and the state of current FAA oversight on the  
7 local level.

8 On April 23rd, 2004, the NTSB released safety  
9 recommendations concerning the airworthiness of the current  
10 airtanker fleet. This was a flawed document. It was lacking  
11 in any due diligence in its research to determine the

1 I can discuss what we do at Neptune. It is my assumption that  
2 other operators have similar maintenance programs in place.  
3 Neptune has all aircraft records detailing their full  
4 operational life of their aircraft, as do other operators. In  
5 the case of Neptune, we have full engineering data for the  
6 production of the P2V that we acquired from Lockheed a few  
7 years ago. This allows us to manufacture parts and equipment  
8 to new standards.

9 Neptune's aircraft are put through a full airframe depot-  
10 level inspection once every 8 years, in addition to its yearly  
11 heavy airframe inspection that occurs yearly. Since 2002, our  
12 wings and carry-throughs have received a full engineered  
13 damage tolerance assessment, and the FAA has approved the  
14 inspection procedures addressed from that assessment.

15 In addition, our wings are given an expanded depot-level

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[REDACTED]

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[REDACTED]

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16 inspection every 2 years. This includes X-ray, dye penetrant,  
17 and visual inspections. All components that can be removed -  
18 - all components are removed and are inspected. This includes  
19 stress panels, access panels, leading edges, fuel tanks,  
20 retardant tanks, and wing ribs. All components are inspected  
21 and replaced, if needed, with parts manufactured to new  
22 standards.

1 maintenance program. So a one to three ratio. This is  
2 ~~approximately the program that Air Transport Canada uses for their~~

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3 airtanker maintenance programs and certification. Yet the  
4 U.S. Forest Service is still discussing bringing Canadian  
5 aircraft south of the border to fight fire in the U.S.,  
6 utilizing the exact same procedures for accumulated fatigue.

7 Independent investigators have examined our operation  
8 many times and they have stated that Neptune Aviation's  
9 maintenance is equal to or exceeds 121 standards, airline  
10 standards. I am sure that other operators of heavy airtankers  
11 are operating at the same level.

12 There seems to be quite a bit of confusion concerning  
13 civil versus public aircraft. It is a grey area that has been  
14 debated for over 50 years now. It was truly designed for  
15 government-owned and operated aircraft. Yet now we have the  
16 government-leased aircraft included into that category,  
17 aircraft that the government truly does not have any  
18 operational control over.

19 I know that the U.S. Forest Service has expressed concern  
20 for liability reasons with relation to heavy airtankers.  
21 However, the U.S. Forest Service has only been successfully  
22 sued once in relation to a heavy airtanker accident. In that  
23 one accident, it was a U.S. Forest Service lead plane aircraft

1 fault. In all other cases, the courts have ruled that it is  
2 the companies that operate these aircraft that are responsible  
3 for maintenance and flight training and the flight crews are  
4 responsible for exercising good command judgment.

5 In every other case the U.S. Forest Service has been

7 use aircraft, not public. If you go back through the court  
8 records and you look at the testimony given, you will find  
9 that the Department of Agriculture has argued that these  
10 aircraft are civil use. Now we are hearing a different  
11 argument. If the question is truly liability, there are ways  
12 to address these concerns through contracting language.

13 Our aircraft are certified as civil aircraft. Yet during  
14 the 100 days we are on contract with the U.S. Forest Service,  
15 the national office of the FAA considers us public use  
16 aircraft. Yet at no time are we removed from FAA oversight.  
17 Even during the fire season, we are under constant supervision  
18 by the FAA. We can do nothing with those aircraft without FAA

1 be a small step for the FAA to say that they are conducting  
2 some level of oversight of these operations, since in the real  
3 world that is precisely what they are doing.

4 I have been informed yesterday that the FAA has stepped  
5 up to the plate by providing recommendations concerning how to  
6 inspect aging aircraft, providing inspection procedures and  
7 knowledge that are rooted in their experience with aging  
8 aircraft. I have also been told that the U.S. Forest Service  
9 has taken these guidelines and expanded what the FAA  
10 recommends by adding an additional third recommendation, that  
11 they have done so without consulting the FAA. The FAA did not  
12 require this third recommendation, nor did they know about it,  
13 and from what I have been told are in disagreement over it.

14 This third recommendation is to test for widespread  
15 fatigue damage, WFD. It is a predictive tool based on data  
16 gathered in the flight environment. Without that data, there  
17 is no way to predict widespread fatigue damage. The industry

1 do so with our current technology; that there is no data to  
2 support these new inspections, yet the U.S. Forest Service, a  
3 non-aircraft certifying agency, is requiring that this be a  
4 part of any inspection to return these aircraft to service.

5           As I remember, one of the reasons that the U.S. Forest  
6 Service terminated these contracts was that they lacked the  
7 experience and the people to oversee the airworthiness  
8 concerns addressed in the NTSB safety recommendations. Yet,  
9 somehow they have accumulated this expertise and decided that  
10 they needed an additional inspection for widespread fatigue  
11 damage, one the FAA, the certifying agency for aircraft,  
12 deemed unnecessary and unattainable without flight data.

13           The Chairman: Mr. Timmons, I would like for you to  
14 summarize since we are over time.

15 Mr. Timmons: No problem, sir.

16 It is my view that this is nothing but a war of  
17 attrition. The U.S. Forest Service will continue to raise the  
18 bar just high enough that the industry cannot accomplish the  
19 task or it is not economically achievable to accomplish this  
20 task. And if the industry accomplishes the task, it will be  
21 assigned a new one. After all, the industry has either  
22 accomplished or exceeded every task it has been assigned since

1 The Chairman: Thank you very much, Mr. Timmons.  
2 Mr. Grantham.  
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1 STATEMENT OF WILLIAM H. GRANTHAM, PRESIDENT,

2 INTERNATIONAL AIR RESPONSE INC., CHANDLER, ARIZONA

3 Mr. Grantham: Thank you to the committee and  
4 particularly you, Senator McCain, for allowing me to testify

5 I want to start off by saying that the other

6 operators here and myself and our company totally agree with  
7 what Mr. Timmons' statement he has just read.

8 On May 10th, 2004, the Departments of Agriculture and  
9 Interior announced cancellation of the large airtanker

10 I want to say that we have entered in



1 aware of the cooperative, collaborative efforts made with  
2 industry and the FAA. Neither was it made aware of efforts  
3 with the U.S. Forest Service and BLM-sponsored programs that  
4 included Sandia National Laboratories, which resulted in  
5 strides to improve safety of the existing airtanker fleet.

6 The NTSB letter cited: "There appears to be no effective  
7 mechanism in place to assure airworthiness of these

8 ~~that immediately following the blue ribbon panel's report on~~

9 that immediately following the blue ribbon panel's report on  
10 ~~aerial firefighting issued in 2002 operators began cooperative~~  
11 programs with the FAA, Forest Service, BLM-sponsored program,  
12 ~~Sandia National Laboratories. the airworthiness assurance~~

1 contract periods. Aircraft loads and structures health  
2 monitoring programs have been initiated and great progress was  
3 being made to satisfy this crucial need for information that  
4 is meant not only to ensure structural airworthiness of the

6 aircraft, modified and purpose-built.

7           Statements have been made regarding the lack of FAA  
8 oversight of firefighting aircraft. Our industry records  
9 exist to prove all contractors receive visits from respective  
10 FAA district offices, I believe around 1500 hits in the last  
11 year is what the FAA uses for terminology, which is quite a  
12 few. All the firefighting aircraft that were withdrawn from  
13 use in 2002 as well as those whose contracts were terminated  
14 have FAA airworthiness certificates, FAA-approved supplemental  
15 type certificates issued for the special purpose of  
16 firefighting, FAA-approved inspection programs. Private  
17 engineering firms with FAA DER's have been hired.

1 of records pertaining to aircraft prior usage. These  
2 statements are also incorrect. At no time has any operator  
3 been visited by the NTSB personnel to look at airtanker

4 records other than during the specific investigations related  
5 to the accidents of 2002.

6 With regard to the necessity to upgrade the fleet and  
7 modernize equipment, the industry concurs and always has  
8 concurred with this necessity. No contractor advocates or  
9 desires to operate any aircraft that is found to either be  
10 unsafe or no longer able to have its airworthiness assured.  
11 In accordance with recognized FAA-approved procedures, it is  
12 the desire and commitment of our industry to work

1 responsible, sustainable economic transition plan,  
2 appropriately funded, to ensure our Nation is not placed in  
3 this situation again.

4 Thank you, chairman, for the time.

5 [The prepared statement of Mr. Grantham follows:]

6 [COMMITTEE INSERT]

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1 The Chairman: Thank you, Mr. Grantham.

2 Mr. Rey, you mentioned that you made the decision -- when  
3 was the decision made, a week ago was that announced?

4 Mr. Rey: The reconfiguration decision was finalized  
5 yesterday.

6 The Chairman: No, the decision to cancel the contracts  
7 on the tankers.

8 Mr. Rey: That was May 11th.

9 The Chairman: May 11th. about 3 weeks ago.

10 Why was not this decision made last fall?

11 Mr. Rey: Last fall we were still working with Sandia  
12 Laboratory and FAA and the contractors on the modified  
13 operating procedures and the more robust inspection and  
14 maintenance program and communicating that information as we  
15 went to NTSB. So it was our hope that, as I said in my  
16 statement, that that would be adequate to assure the  
17 airworthiness of the tanker fleet.

18 The Chairman: But what actually happened was that,  
19 instead of making a decision to ground the fleet so that  
20 perhaps Sandia's recommendations, the NTSB, the FAA  
21 recommendations which you have been given could have had time  
22 to have been implemented before we are into the fire season.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

23 you delayed and made the decision at a point where now we have  
24 actual fires going on.

1 implement the recommendations of the blue ribbon commission  
2 and FAA. So that was in process.

3 The Chairman: And were Sandia's recommendations  
4 implemented?

6 still waiting for additional information from Sandia.

7 The Chairman: Well then, how could the Department of  
8 Interior determine, and I quote, "There is no method currently  
9 in place to adequately ensure the safety and airworthiness of  
10 the aircraft"? Was the money to Sandia wasted?

11 Mr. Rey: That was a quote from the NTSB report. I think  
12 what our reading of the NTSB's conclusions, our interpretation  
13 of their conclusions, was that they felt that the work with  
14 Sandia was either inadequate and-or not coming on line fast  
15 enough to assure that the aircraft could be safely flown in  
16 this fire season.

17 The Chairman: A decision that could have been made last  
18 fall, right, Ms. Connors?

19 Ms. Connors: Well, sir, we were in discussion with the  
20 Forest Service as a party to the investigation, so where we  
21 were headed was being discussed. But we did not issue our

~~Mr. Rey: As it turned out it was fortuitous that the~~

2 final decision came out at the outset of the fire season,  
3 because if we were into the middle of the fire season it would  
4 have been significantly more difficult to contract the  
5 additional aircraft necessary to reconfigure the fleet.

6 So it would have been somewhat better had we gotten their  
7 final report last fall, but nevertheless not crippling to our  
8 firefighting effort to get it when we got it.

9 The Chairman: Well, my point is that the FAA has now  
10 given you some guidelines -- right, Mr. Sabatini?

11 Mr. Sabatini: Yes.

12 The Chairman: And you are announcing these today, after  
13 announcing on May 11th that the contracts were cancelled. It  
14 is very bad timing. We are now faced with a crisis situation.  
15 We were not last fall because of the end of the fire season.  
16 I would have hoped that that would have been taken into  
17 consideration in the decisionmaking process. Obviously it is  
18 not.

19 Mr. Rey, anybody who understands the speed and range of a  
20 helicopter as opposed to one of these aircraft does not agree  
21 with your assessment that somehow these are adequate

~~unfortunately I have been around too long in aviation to hav-~~

1 My sense is, with Chairman McCain and colleagues here  
2 putting some heat on, and we are going to keep it on, we are  
3 going to figure out a way to deal with this now and we are  
4 going to have people reporting and the like. But my sense is  
5 that there is still going to be tremendous confusion about  
6 accountability.

7 I would like to ask each of you whether you think it  
8 would be clearer and simpler to just put FAA in charge of

10 would require a change of statute to do it. But it seems to  
11 me that once the hot light of Congressional oversight passes  
12 and we get through this we will be back in the same vacuum of  
13 responsibility that we are in now.

14 So let me see if I can get you all on the record on this,  
15 on changing the statute and putting FAA in charge of safety  
16 issues. Why do we not start with the Forest Service.

17 Mr. Rey: That is an option available to the Congress.  
18 It would require a statutory change, given the current  
19 configuration.

20 Senator Wyden: But would you support that now?

21 Mr. Rey: We are moving forward as aggressively as



1 safety. It is what Congress recommended. I would like a yes  
2 ~~or no~~ answer about whether or not you would support that.

3 Mr. Rey: We would not oppose that.

4 Senator Wyden: Good, very good.

5 The FAA?

6 Mr. Sabatini: We will certainly follow the will of the  
7 Congress.

8 Senator Wyden: Yes or no with respect to whether you  
9 would support it?

10 The Chairman: I would ask the witnesses to answer the  
11 question. It is pretty straightforward questions. We would  
12 like yes or no answers, affirmative or negative. You can  
13 elaborate if you would like. But I am growing a little weary  
14 of people coming before this committee and not answering  
15 straightforward questions with straightforward answers.

16 Mr. Sabatini, your question is very clear.

17 Mr. Sabatini: I could not support that, and I would like  
18 to elaborate. I think that the United States military is a  
19 shining example of how public aircraft can be operated very  
20 safely. They are a world-class organization. They have a  
21 competency and an expertise equal to what we have in the civil  
22 side of the FAA.

23 Congress back in 1994, this very committee, debated this  
24 very issue and the changes that they made was to take the  
25 transportation of people that was not inherently government

1 and place that under FAA responsibility and jurisdiction. But  
2 it made very clear and very explicitly stated that there are  
3 operations which are so inherently dangerous that they do not  
4 fit into the civil side of the fleet and that it should remain  
5 the responsibility of the operating authority, such as the  
6 Forest Service or the military, in activities such as  
7 firefighting, search and rescue, etcetera.

8 So in answer to the question Senator Timmons asked 11-

9 to see that.

10 Senator Wyden: Mr. Timmons, Mr. Grantham --

11 The Chairman: Thank you very much, Mr. Sabatini.

12 Senator Wyden: -- yes or no?

13 Mr. Grantham: Yes.

14 Mr. Timmons: Yes, I would agree.

15 Ms. Conners: Sir, we have a five-member partisan board.

16 I cannot speak for the other members.

17 Senator Wyden: Just you, just your opinion?

18 Ms. Conners: I will give you my opinion. I believe that  
19 it would be a slippery slope of expansion of policy. You  
20 would have incredible resource requirements for the FAA. When  
21 you look at, as suggested by Mr. Sabatini, some of the other  
22 safety operations such as the Coast Guard helicopter search

1 firefighting, that I think the Congress needs to look very  
2 seriously at it beyond this immediate moment on such a policy  
3 change.

4 That is the opinion of only one board member, not the  
5 board itself.

6 Mr. Rey: If I could elaborate just for a second, because  
7 I did not do so priorly. Whether Congress makes that change  
8 or not, we are committed to working with FAA and they are  
9 committed to giving us their expertise to solve this problem,  
10 and we will move to solve it.

11 Senator Wyden: I guess that is what I am skeptical of.  
12 I think once oversight and the exposure passes I question  
13 that. And it is not a question of your desires, Mr. Rey. The  
14 FAA provided the Forest Service and various other people with  
15 their phone number and yet I do not see any evidence of any  
16 real follow-up.

17 I guess I got three out of five votes here today to put  
18 the FAA in charge of safety, but it is an issue I am going to  
19 continue to pursue.

20 Let me ask about one other matter because I know

21 [REDACTED] have questions. I have real reservations about

22 whether the FAA has the information that is needed now about  
23 the stresses of the firefighting environment and that there is  
24 not adequate science on it. What does this panel think about

1 firefighting planes? Obviously there would be questions about  
2 cost and the matter of installation and the like. But  
3 obviously something that would ensure that we have got the  
4 data that realistically looked at what was going on there  
5 strikes me as constructive.

6        Let us just go down the row. Mr. Grantham, is this a  
7        sensible thing to be looking at?

8 Mr. Grantham: Yes, it is, sir. Actually, after the 2002  
9 tragic accidents the FAA paid to install telemetry wiring  
10 equipment in our two C-130A aircraft. They have operated  
11 continually since 2002. They operate on U.S. Department of  
12 Defense contracts. We fight fire in foreign countries since  
13 the U.S. Forest Service won't use them.

14       The equipment takes readings all through the wings area,  
15       the fuselage, many points. It is on a disk. It can be pulled  
16       any time you want to pull it. It is analyzed. And it is not  
17       only for the current airworthiness safety measures for that  
18       aircraft, but it is for establishing a future baseline for  
19       safety of these aircraft and to determine what the aircraft is  
20       doing and what it is not doing and what the stress loading is.  
21       As of this date, it has not pulled up any data that shows  
22       that there are excessive stresses on that aircraft in this  
23       mission, and it has been used. Both of our aircraft were on

1 supplied to the FAA.

2 Senator Wyden: Mr. Timmons, the rest of the panel, black  
3 box recorders or something similar?

4 Mr. Timmons: I would concur. I have no problems with  
5 the black box. Sandia has already put health monitoring  
6 equipment into a P2V, a DC-6, and a P3A. That data was  
7 gathered through the 2003 fire season. The data has not been  
8 analyzed and with the cancellation of these contracts there  
9 will be no more data coming in. So I would encourage both.

10 Senator Wyden: Mr. Rey, Mr. Sabatini, Ms. Connors?  
11 Because that is the point. With the cancellation of the  
12 contracts, we are not going to get this data, and I am  
13 interested in these policies that are going to allow us to  
14 track the science in the future.

15 Mr. Ray, what do you think of the idea?

16 Mr. Rey: I think, as Mr. Timmons said, that we are  
17 beginning to collect that kind of information under the Sandia  
18 protocol. I do not have any problem with that.

19 Senator Wyden: Good.

20 Mr. Sabatini?

21 Mr. Sabatini: I would support flight data recorders.

22 Senator Wyden: Good.

23 Ms. Connors: The board is on record in supporting data  
24 recording in all modes of transportation.

25 Senator Wyden: Mr. Chairman, I know colleagues want to

1 ask questions, but I am very pleased again that you are  
2 holding these hearings. I think that clearly there has been  
3 some confusion about the key safety questions. Certainly the  
4 Forest Service at times thought the FAA was looking at issues  
5 of ongoing inspection and compliance when clearly FAA was not  
6 doing any such thing.

7 So I hope that, through clarifying the safety oversight  
8 responsibility -- I continue to believe that we ought to do  
9 what Congress recommended, and that is to put FAA in charge of  
10 safety issues, and then following the science with something  
11 along the lines of a requirement for a black box recorder on  
12 these flights so that we can track stress. Those are the  
13 kinds of suggestions that are going to help us turn this  
14 around.

15 But I am very appreciative as a westerner of your holding  
16 these hearings and giving us a chance to force as much change  
17 out of this process as we can.

18 The Chairman: Thank you.

19 Senator Burns.

20 Senator Burns: Thank you, Mr. Chairman.

21 I want to start -- we have already asked some of the  
22 questions that I was going to ask, but I want to clarify one  
23 thing here. Mr. Bay, this signing of the MOU with the FAA and

24 using their recommendations on this thing, and say the  
25 operator-by-operator basis to make your judgment, how quickly

1 could you put qualified tankers back in the air? Have you got  
2 any estimate on that?

3 Mr. Rey: That was a question that we struggled with  
4 yesterday with our engineers, both at FAA and the Forest  
5 Service. The best answer we can give you right now is the  
6 shortest time period and the longest time period. The longest  
7 time period is never. Some of these aircraft --

8 Senator Burns: That is like the market: How low can it  
9 go? Zero.

10 Mr. Rey: Right. Some of these aircraft may not be able  
11 to secure and provide the data necessary to assure their  
12 airworthiness. I will sort of take on faith that the two  
13 operators here can provide that. I suspect some others will  
14 not be able to. So that is the outside number, never.

15 The inside number is that we believe as we send them the  
16 request for information to the contractors today, if they can  
17 turn around that information request relatively quickly, we  
18 can have the results and recommendations to put before the  
19 NTSB in about 30 days time.

20 Senator Burns: Mr. Chairman, that 30 days seems like a  
21 long time. If you have gotten the information -- Mr. Timmons,  
22 give me a real world estimate. They require this information.  
23 You supply them that information as correctly as you can, and  
24 from my understanding you have as good records as anybody in  
25 the business. How long would it take you to get those records

1 to the Forest Service?

2 Mr. Timmons: With the records that we have in place, if  
3 they are not asking for any additional engineering data, we  
4 could acquire and send them those records probably within 2  
5 working days.

6 Senator Burns: And then, then you are going to forward  
7 those, those records, to who to make a decision? Are you  
8 going to take it to the FAA or the NTSB?

9 Mr. Ray: We will sit down with the FAA-designated

10 engineering representatives and review the information to  
11 assess first ~~whether or it complete, second whether it is~~  
12 adequate to assure a recommendation of airworthiness, third to  
13 ~~evaluate whether more information will be needed. and we will~~

14 make that a fair evaluation.

15 Then, wrapping all that together, if we conclude that the  
16 answer to those questions is yes and not no, then we will  
17 submit that to the NTSB to see if we can get some modification  
18 of their recommendations.

19 Senator Burns: Well, the NTSB, they are not a regulatory  
20 agency. They investigate and report.

21 Mr. Ray: That is correct, but they often continue to  
22 investigate agencies' ongoing compliance with their  
23 recommendations. It would be our preference here in this case  
24 to give them that material, to see if they want to give us any  
25 advice per their original recommendations. They may choose



1 not to, in which case then we and the FAA will have to make a  
2 decision.

3 Senator Burns: Given that information, Mr. Sabatini, how  
4 long would it take?

5 Mr. Sabatini: The responsibility to provide the data to  
6 demonstrate compliance with the criteria that has recently  
7 been provided to the Forest Service rests with the operator,  
8 in essence the applicant. The Forest Service is positioned  
9 today, with the expertise that they have developed over time  
10 with our assistance -- I want to make clear, with our  
11 assistance -- and they can now have available to them, we have  
12 provided them, a list of designated engineering  
13 representatives who are designees, authorized by the FAA to do  
14 work on behalf of the FAA, but who are not FAA employees.  
15 They are available to the Forest Service.

16 They and they alone are responsible for the decision

18 wish to submit that data to us for review, we will continue to  
19 support them and lend our significant expertise in that area.  
20 But the final decision as to returning those aircraft to

1 can. But I realize you go down there in this, there is going  
2 to be some faceless little person, and their eyes are very  
3 close and they speak in tongues, who can give us a run-around  
4 and we will not get one damned airplane off the ground or put  
5 out one fire.

6 That is what concerns me more than anything else, is the  
7 process here more than anything else. If an operator has the  
8 records and complies with everything that they are asked to  
9 do, why can not that be dealt with in a timely manner so  
10 everybody can get back to the business of protecting our  
11 national forests and our national treasures?

12 Mr. Rey: There is no reason they cannot. If they have  
13 the records, if the records are adequate, if the records  
14 demonstrate that the vehicles are airworthiness -- those are  
15 three if's -- then we are committed by the work that we have  
16 done with FAA's guidance to try to give them every opportunity  
17 to get back in the fleet, because they are cost-effective.  
18 But if that does not happen -- and I hazard a guess that it  
19 will not happen for some number of the large airtanker fleet.

1. To ensure that the information is not confidential

21 that we will fight fires and maintain a nearly 99 percent

1 dispersed fashion. Once they are there on site, they have  
2 other advantages. Their turn times are shorter and they can  
3 deliver more water and retardant.

4 So one of the things I want to leave for the benefit of  
5 the confidence of your constituents is that we have  
6 reconfigured the fleet in a fashion that is going to result in  
7 an effective firefighting effort. That being said, if those

9 satisfaction of the Forest Service and the Department of the  
10 Interior, with FAA's expert counsel, and we get some judgment  
11 that we are making progress against NTSB's recommendations,  
12 they will have the opportunity to return to the fleet and we  
13 will use them gladly.

14 Senator Burns: Thank you, Mr. Chairman.

15 The Chairman: Senator Boxer.

16 Senator Boxer: Thank you, Mr. Chairman.

17 I am very concerned, Mr. Rey, that you do not exhibit the  
18 attitude of a can-do person to me, really. You are telling us

1 face and tell them they are safer than they were? You are  
2 sitting here -- and I can tell because I am watching you and I  
3 am listening to you and you say: Even if we do not have one  
4 tanker. You do not intend to put any of them back.

5 I agree with Senator Burns. He gets it, too.

6 Mr. Rey: If we did not --

7 Senator Boxer: Wait. I am going to ask you a question.

8 Mr. Rey: Okay.

9 Senator Boxer: But I have to say, I am confused. Ms.  
10 Connors says to us very clearly "By statute authority for the  
11 safety oversight of these operations," meaning the tankers,  
12 "belongs to the agency or department responsible for the  
13 operation." Did you not know you were responsible for the  
14 safety before?

15 Mr. Rey: The responsibility devolves to the operator of  
16 the aircraft.

17 Senator Boxer: That is not what Ms. Connors said. Is  
18 that correct, Ms. Connors? Did you not say what I just said?  
19 "By statute, authority for the safety oversight of these  
20 operations belongs to the agency or department responsible for  
21 the operation"?

22 Ms. Connors: Yes, ma'am, we said that in this case the  
23 Forest Service and the Agriculture Department --

24 Senator Boxer: Thank you.

25 Ms. Connors: -- would be primarily responsible for the

1 operation.

2 Senator Boxer: Exactly.

3 Who in your shop was responsible when those accidents  
4 occurred? Who did you turn to and say, what work have you  
5 been doing?

6 Mr. Rey: We turned to our Fire and Aviation Branch that  
7 continues to work on the safety of these aircraft and asked  
8 them to charter an independent review of the safety of the  
9 aircraft, which we did, to install additional operation and  
10 maintenance requirements, and configure some of the operation  
11 of the aircraft to try to assure airworthiness. That effort  
12 has been ongoing since December of 2002.

13 Senator Boxer: So do you have confidence in those people  
14 in your shop, since they are required under law to be  
15 responsible? Do you have confidence in them?

16 Mr. Rey: I have confidence in them as far as their  
17 expertise goes. To the extent that we are solely responsible  
18 for assuring airworthiness without the advice of FAA, I do not  
19 think they are adequate for that purpose. That is why we have  
20 sought FAA's and received FAA's advice to assist.

21 Senator Boxer: Well then, why would you not endorse  
22 Senator Wyden's point? You are sitting here telling us your  
23 shop is not adequate.

24 Mr. Rey: By itself.

25 Senator Boxer: Yes.



1 the fire chiefs on the ground? Do you have the same  
2 background as they have?

3 Mr. Rey: I have staff with superior expertise in  
4 wildland firefighting.

5 Senator Boxer: Superior to the people who are doing this

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6 every day?

7 Mr. Rey: They are doing it every day.

8 Senator Boxer: Okay. So do they not agree with my  
9 people who say in reality it is pretty scary going into this  
10 type of season without this resource, they have a major effect  
11 on fighting? You would disagree with that?

12 Mr. Rey: I disagree with the statement that they have a  
13 major effect on fighting large wildland fires. They have a  
14 major effect in two narrower areas: initial attack when  
15 access is an issue; and extended initial attack to slow down a  
16 fire.

17 Senator Boxer: Mr. Chairman, let me tell you what I am  
18 getting from this witness between the lines here. I do not  
19 see someone that is very motivated to fix this problem in the  
20 short term. I am very concerned about it.

21 Mr. Timmons, do you have -- since you and Mr. Grantham -  
22 -

23 The Chairman: Maybe Mr. Rey would like to respond to  
24 that.

25 Mr. Rey: I would like to respond to that, because maybe





1 us, this does not appear to be something that is upsetting to  
2 you.

3 I would just like to ask the gentlemen who know about  
4 these aircraft if they agree with Mr. Rey on the effectiveness  
5 of the tankers?

6 Mr. Grantham: We do not agree with Mr. Rey.

7 Senator Boxer: Could you give us some facts on it?

8 Mr. Grantham: Well, we can give you the same facts. I  
9 have been an initial attack airtanker pilot for around 38  
10 years. I forget how many. And we have been in business that  
11 long, too. The large airtanker probably has been historically  
12 the most useful tool in combatting wildland fires.

13 One of the problems that has happened in the last 10 to  
14 15 years, the Forest Service has mismanaged even using the  
15 large fixed-wing airtanker. As Mr. Rey now states, it is  
16 ideal for initial attack and follow-up attack. The  
17 firefighting methods have switched from early morning times of  
18 day when you have advantage over the fire to fighting it  
19 during the critical burn period of the day, and this is not a  
20 good firefighting method which the Forest Service has gone to.  
21 It is more dangerous on equipment, personnel, adds more stress  
22 loads to the aircraft with the turbulence, and you have less

23 advantage over the fire. You have to fight fire early in the  
24 morning.

25 But along with the helicopter and the single-engine

1 airtanker and the other equipment, which is also -- they are  
2 susceptible to the same dangers we have and the same  
3 structural problems. None of them are going through these  
4 same FAA certification situations the large airtankers are  
5 going through. So they are out there adding this equipment on  
6 in a more unsafe atmosphere than the large airtanker fleet  
7 that is the most heavily inspected fleet today that you have,  
8 probably the safest fleet to put back into existence.

9 The Chairman: Now, Mr. Grantham, it cannot be the safest  
10 if it had three tragic accidents now. Let us put it in  
11 context here.

12 Mr. Grantham: Firefighting is inherently dangerous.  
13 They average probably --

14 The Chairman: But these tankers crashed, the helicopters  
15 did not and others did not.

16 Mr. Grantham: Helicopters do crash.

17 The Chairman: And they were because of failure, material  
18 failure.

19 Mr. Grantham: I think you can look to individual  
20 companies for some of that problem.

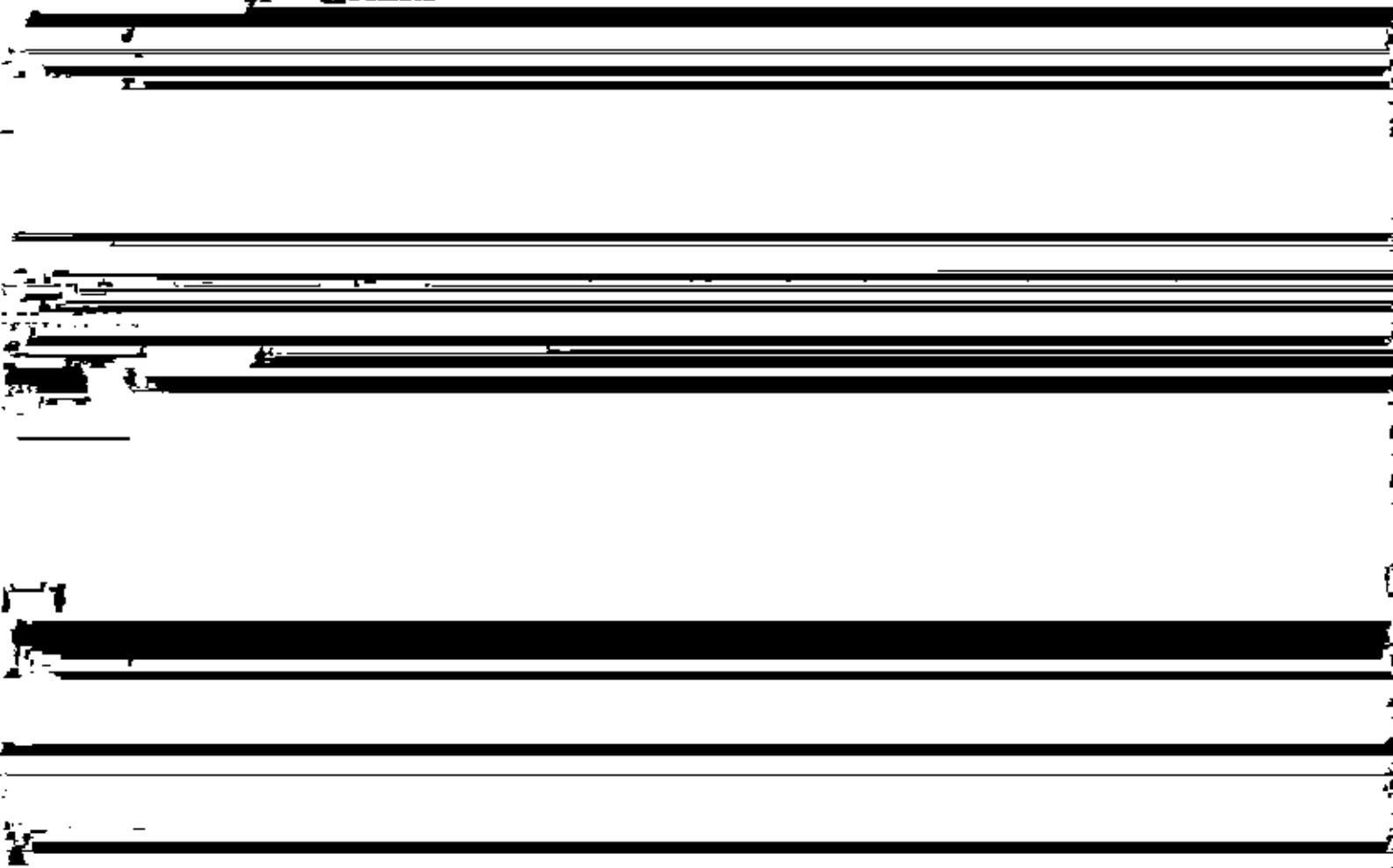
21 The Chairman: I am sure the families do not look at  
22 individual companies, Mr. Grantham. Go ahead.

23 Senator Boxer: Well, the point is that they are  
24 effective. The safety issue is what needs to be addressed,  
25 and we all agree on that. The problem that I have and I think

1 Senator Burns has, just listening to him, is we want to make  
2 sure that you have -- we have accidents all the time. It is  
3 horrible, lots of aircraft. But we make sure that we have in  
4 place the best kind of system to make sure that these planes  
5 are airworthy.

6 In the law today, you are responsible for that. You have  
7 said here you do not think you have enough expertise in your  
8 shop. I find that troubling, Mr. Chairman, because if they do  
9 not have enough expertise in their shop, A, we have to either  
10 change the law or, B, get them more money so they can get the  
11 expertise so that we can get these tankers up and running  
12 again, because when -- and I will just close with this. I  
13 have a slew of people who have testified as to the importance  
14 of the airtankers.

15 Here is Tom Innocencio, assistant manager at the  
16 airtanker base in San Bernadino. which is run by the U S



1 Thank you, Mr. Chairman, for your patience.

2 Mr. Rey: I will be as can-do as I can be. There is an  
3 option C, Senator Boxer, and that is for the FAA to provide us  
4 the assistance they are and, hopefully, if the operators can  
5 provide the information we need, to then get them airworthy  
6 doing that. That is just what we are doing. As I told  
7 Senator Burns, with audible gasps from our engineering staff  
8 at both the Forest Service and the FAA behind me, that if  
9 everything works right in terms of their ability to provide  
10 the information and the information does provide the necessary  
11 basis for assuring their airworthiness, we can have that done  
12 in 30 days or thereabouts.

13 Senator Boxer: Thank you.

14 The Chairman: More time, Senator Boxer?

15 Senator Boxer: No, thank you.

16 The Chairman: Senator Cantwell.

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1 STATEMENT OF HON. MARIE CANTWELL, U.S. SENATOR FROM  
2 WASHINGTON

3 Senator Cantwell: Thank you, Mr. Chairman.

4 I have a question, Mr. Rey: It is not often I have a  
5 chance to ask you a question before this committee, but we  
6 have had many exchanges before the Energy Committee. We are

7 ~~about 20 days away from the anniversary of the 30-Mile~~

8 anniversary of the 30-Mile fire, in which we lost several  
9 young firefighters in the State of Washington. So safety for  
10 us has been a primary concern. While the 30-Mile fire I do  
11 not think would have been necessarily aided by these  
12 particular tankers we are talking about this morning, I think  
13 it does bring up a question about the priority of safety and  
14 security.

15 I think I am not sure I have even -- I think we have  
16 queried you numerous times about a separate safety and  
17 security budget number from the agency, which I am not sure we  
18 have even gotten, resources on that. So now here we are with  
19 this particular incident. I personally believe the agency  
20 spent a lot of time undermining environmental law in the last  
21 several years. So my question is, if you spent that much time  
22 on these environmental changes why did you not spend this much

1 memo, what document in which the agency first determined that  
2 these tankers were not going to be sufficient for this season?

3 Mr. Rey: The inquiry into the safety of the large  
4 airtanker fleet commenced immediately after the fatal  
5 incidents in 2002. After that we established an independent  
6 review committee co-chaired by the former chairman of the  
7 NTSB, the previous administration, and a state forester from  
8 Texas who has some expertise in the use of aviation assets.

9 We also consulted at that point with FAA. From the  
10 recommendations of FAA and the blue ribbon independent review  
11 commission, we contracted with Sandia Laboratories to develop  
12 a more robust inspection and maintenance program for these  
13 airtankers, as well as to modify some of the operating  
14 procedures to assure a larger margin of safety. We reduced,  
15 for instance, fuel loads -- not fuel loads, but retardant  
16 loads under certain circumstances.

17 Throughout the course of implementing the recommendations  
18 of Sandia Laboratories and FAA's recommendations, we were  
19 communicating with the NTSB. It was our hope that as NTSB's  
20 report was finalized that the changes that we had made would  
21 be sufficient for a different kind of conclusion from NTSB.  
22 That hope was not realized and so the question then became, as  
23 I indicated earlier in the hearing, upon receipt of the NTSB  
24 report the sole question available was, would any prudent  
25 person continue to fly these aircraft in the presence of




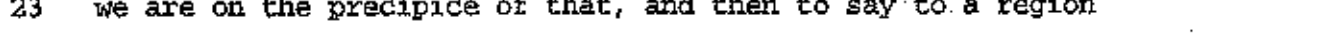

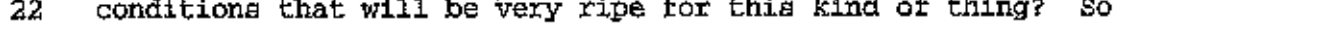



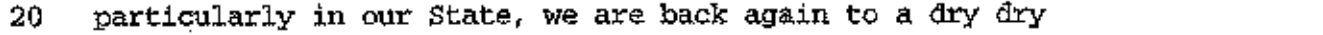
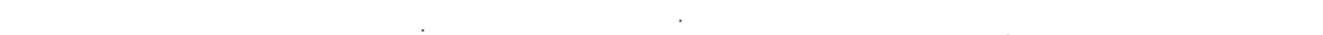
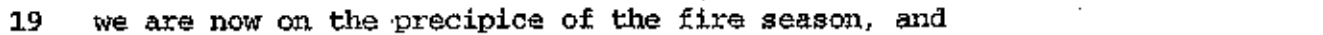





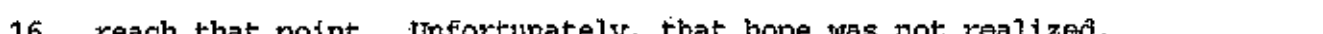
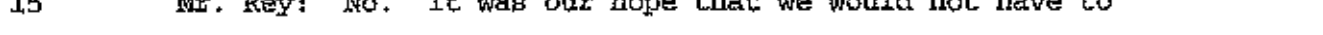







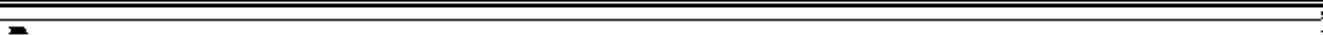







1 available alternatives?

2 We concluded on May 11th that no prudent person would do  
3 that in the presence of available alternatives.

4 Senator Cantwell: So during this time period, Mr. Rey,  
5 since the 2002 period, did you ever inform any committees or  
6 members of Congress that an ultimate solution to this might be  
7 grounding of the tankers?

8 Mr. Rey: No. There were hearings, primarily in the  
9 House, in 2003, I think, that asked about the status of the  
10 firefighting effort generally and airtanker safety  
11 specifically.

12 Senator Cantwell: But nowhere did you give notice to  
13 members that, hey, we might be at a critical juncture here  
14 where we are grounding these tankers?



15 Mr. Rey: No. It was our hope that we would not have to  
16 reach that point. Unfortunately, that hope was not realized.

17 Senator Cantwell: In hindsight, do you not think you  
18 wish you would have given some people the heads-up, given that  
19 we are now on the precipice of the fire season, and  
20 particularly in our State, we are back again to a dry dry  
21 season and we expect that we are going to have severe  
22 conditions that will be very ripe for this kind of thing? So  
23 we are on the precipice of that, and then to say to a region  
24 of the Northwest, we do not think we are going to have these  
25 large tankers?

1 Mr. Rey: As I said earlier, the advent of the fire  
2 season forced the issue in terms of the timing of the  
3 decision, because we needed to move quickly to secure  
4 alternative aircraft to replace the tankers. So yes, it would  
5 have been more fortuitous if we could have made the decision

6 earlier, but it would have been more disastrous -- or  
7 difficult, if we would have waited on the decision, argued it  
8 back and forth, and then been further into the fire season  
9 unable to secure replacement aircraft.

10 Senator Cantwell: I am not questioning that. I am  
11 questioning the time period of discussion about the fact that  
12 we might get to this critical moment. God forbid if we were  
13 doing this in Iraq and all of a sudden we said we do not have  
14 a plan, no one ever thought of it. I am questioning now the  
15 agency's commitment to safety, and from my own experience in  
16 trying to get the cultural awareness on the incidents from the  
17 30-Mile fire or even get a safety budget, what does the agency  
18 spend on safety -- that is mandated in the wildland bill and



1 going to be gravely impacted from this about whether other  
2 alternatives -- what other plans, what other considerations  
3 would be considered.

4 I have a follow-up question. I know my time is running  
5 out.

6 Mr. Rey: We did notify our State cooperators in the  
7 firefighting effort. In fact, we reconvened the blue ribbon  
8 commission to assess their views as to whether this was the  
9 right course of action.

10 Senator Cantwell: Good. So I would like to ask a  
11 question about that. I did not mean to interrupt, Mr. Rey.

12 Mr. Rey: No, go ahead.

13 Senator Cantwell: So what States have endorsed this  
14 proposal now? What States have said, yes, Mr. Rey, this is  
15 the way to handle the situation?

16 Mr. Rey: We got a letter from about six governors from  
17 the western United States this week. I will make it available  
18 for the record. I cannot remember which ones they are.

19 [The information referred to follows:]

20 [COMMITTEE INSERT]

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1 specific targets on firefighting, that would help in safety.  
2 So I will submit that to the panel. Maybe we can get some  
3 feedback and whether that is something the FAA and others  
4 would consider. Obviously it does not help with the actual  
5 distribution and treatment, but it does help on  
6 reconnaissance.

7 Thank you, Mr. Chairman.

8 [The information referred to follows:]

9 [COMMITTEE INSERT]

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1 The Chairman: Thank you.

2 [REDACTED] Mr. Rey: The recommendations in the NTSB report are not

3 that different from the recommendations made by the blue  
4 ribbon commission established by the Forest Service in 2002.  
5 What aspect of the NTSB recommendations that were not in the  
6 blue ribbon commission report made you cancel the contracts?

7 Mr. Rey: I think that the work that we did to respond to  
8 the blue ribbon commission report was work we hoped would  
9 stand us in good stead as the NTSB completed its review. Our  
10 judgment was after the NTSB reviewed the work that we had  
11 completed and found it still inadequate to assure  
12 airworthiness we had taken our last swing in this particular  
13 at-bat.

14 So it was a function of the timing of the two. We moved  
15 to do as much as we could to respond to the blue ribbon  
16 commission report between their report in December of 2002 and  
17 the NTSB's report. We got the NTSB's report, as I said in the  
18 answer to Senator Cantwell, we looked back to the blue ribbon  
19 commission and said: What do you think we ought to do at this  
20 juncture? And their advice -- and I believe that Jim Hull  
21 from Texas is going to submit a statement for the record; he  
22 testified over on the House side -- their advice was to ground  
23 the planes, and I think that was sort of the final straw, if  
24 you will.

25 The Chairman: Ms. Connors, did you see the Sandia

1 recommendations?

2 Ms. Conners: Yes, sir. The Sandia recommendations were  
3 reviewed during part of the investigation.

4 The Chairman: Did you find them any different from the  
5 conclusions or recommendations that you have arrived at?

6 Ms. Conners: Well, actually, sir, the Sandia report was  
7 essentially an evaluation of the existing maintenance and  
8 inspection programs. It provided that programs needed to be  
9 implemented, but we felt Sandia pretty much stated the obvious  
10 and did not provide information as to how the Forest Service

11

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12 It is a systematic issue. It is a process of procedures.  
13 It is a question of acquiring significant data. If I may, I  
14 would like to quote from the March 2004 Consortium for Aerial

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15 Firefighting Evolution report. It says: "The limited data  
16 collected to date indicates that the cyclic fatigue spectrum  
17 experienced in aerial firefighting aircraft is far more than  
18 the cyclic spectrum experienced by aircraft operating in a  
19 passenger cargo role. This can either accelerate the damage  
20 cracking of known structural problem areas and-or introduce

1           This load spectrum, sir, is the key to the issue of the  
2 records. It is not just a question of when the oil was  
3 changed. It is a question of analyzing and acquiring load  
4 data, providing a sophisticated analysis of that load data.

5           The Chairman: I do not think anyone thought that it had  
6 anything to do with oil change, Ms. Conners.

7           Ms. Conners: No, sir. I am just referencing the fact  
8 that this is not -- it is a systemic issue. It is not simply  
9 a situation --

10          The Chairman: I think all of us concluded that it was  
11 because of the failure of the wings of the aircraft.

13          The Chairman: So what has that got to do with oil  
14 changes?

15          Ms. Conners: I apologize, sir. I did not mean to appear  
16 glib. My statement was meant that we believe that a  
17 systematic approach to developing the maintenance program, as  
18 you stated in your opening remarks, is a process and the

1 The Chairman: Mr. Rey, were the Sandia recommendations  
2 implemented?

3 Mr. Rey: They are in the course of being implemented.  
4 Not all of them were completed.

5 The Chairman: Those recommendations were made in 2002,  
6 were they not?

7 Mr. Rey: Some of them were made in 2002 regarding  
8 inspection and maintenance. Others were still ongoing.  
9 Indeed, we were waiting for a final report from Sandia on some  
10 of the testing protocols that the NTSB chair just mentioned.

11 The Chairman: Mr. Sabatini, the set of recommendations  
12 that you have come up with, that the FAA has come up with, if  
13 those are implemented, suppose that all of those  
14 recommendations are implemented, then who would then have the  
15 final decision on whether those aircraft would fly again?

16 Mr. Sabatini: It would be the Department of Interior.

17 The Chairman: So I guess we come back to you, Mr. Rey.  
18 If those recommendations are implemented, would that mean that  
19 you would be disposed to allow these contracts to be renewed?

20 Mr. Rey: That would be our intention if all the

21 ~~recommendations are made~~ I would like to submit the

1 probably save money, because we would take some of the other  
2 replacement assets to a lower status and replace them with the

---

3 airtankers. As I said earlier, the airtankers are more cost-  
4 effective.

5 The Chairman: Do you have any idea how long it would  
6 take you to review and implement the FAA recommendations?

7 Mr. Rey: That was the "between 30 days and never" time  
8 span that I gave to Senator Burns. As I said, it is I think a  
9 reasonable supposition that some of the airtankers are not  
10 going to be able to provide, some of the operators are not  
11 going to be able to provide the required information for us,  
12 with the FAA's assistance, to review the airworthiness  
13 question. Those would be never.

14 But if everything works right in terms of all the  
15 information being available, I think 30 days to get something  
16 prepared is within a reasonable stretch.

17 The Chairman: Mr. Timmons, Mr. Grantham, I would be glad  
18 to grant you some closing comments if you would like to make  
19 them, beginning with you, Mr. Timmons. Pull the microphone  
20 close to you, please.

21 Mr. Timmons: Thank you.



1 going to be attempting to come to a conclusion what and who is

2 \_\_\_\_\_

3 air.

4 By that time, the 50 years of experience that are within

5 this industry will be gone. These companies do not have the

1 I think particularly our government witnesses recognize  
2 how important this issue is. Mr. Rey, I will not argue with  
3 your point that perhaps the assets have been, quote,  
4 "replaced," unquote. But in some of these fires that have  
5 taken place, particularly when they are simultaneous and in  
6 different States, we do not have enough assets. So to simply  
7 replace assets is not -- I am afraid is not sufficient.

8 We are all very worried, because every expert tells us  
9 there will be a repetition of last summer, given the same  
10 conditions that prevail throughout the West, particularly in  
11 the Southwest. It is the seventh year of a drought now. So I  
12 hope that we can make every asset available.

13 But I also take your point, both Ms. Connors and Mr.  
14 Sabatini and yours, Mr. Rey, that safety has to be paramount.  
15 There have been three tragic accidents and unwarranted delays  
16 are not acceptable. But at the same time, we have to always  
17 recognize in our frustration that safety is paramount and we  
18 owe that to the families and individuals who will be flying  
19 these aircraft.

20 So I understand that the point is that we have to

21 take Senator Burns' point: Let us try to reach conclusions.

22 In other words, if these aircraft can be made airworthy then

1 I thank the witnesses for-being here this morning. I  
2 thank you. This is a very important issue and I hope that all  
3 of us understand that we have to do what we can, however we  
4 can, to make sure that as we face the almost inevitable

2. பெரிய அளவுக்குரிய கட்டுமானப் பணிகள் - 1970-71-ல் 1000 க்கு மேல் 4000 க்கு கீழ்

6 to address it.

7 I thank the witnesses. This hearing is adjourned.

8. Information - at 11:17 a.m. - the condition was determined 1.

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